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HOUSE BILL 233

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mimi Stewart

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH; REQUIRING CERTAIN GOVERNMENTAL ENTITIES TO ASSIST INCARCERATED PERSONS WITH MENTAL DISORDERS TO APPLY FOR AND RECEIVE PUBLIC BENEFITS; REQUIRING CERTAIN GOVERNMENTAL ENTITIES TO NEGOTIATE A PRERELEASE AGREEMENT WITH THE FEDERAL SOCIAL SECURITY ADMINISTRATION; PROVIDING FOR PHOTO IDENTIFICATION FOR CERTAIN PERSONS UPON RELEASE FROM INCARCERATION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Prerelease Benefits Assistance Act".

Section 2. DEFINITIONS.--As used in the Prerelease Benefits Assistance Act:

A. "incarcerated" or "incarceration" means to be confined or confinement in a public or private prison, juvenile

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1 detention facility or other detention or confinement facility;

2 B. "mental disorder" means a disorder of emotional
3 processes, thought or cognition that grossly impairs judgment,
4 behavior or capacity to recognize reality. "Mental disorder"
5 includes developmental disabilities, which are chronic
6 disabilities attributable to mental or physical impairments or
7 a combination of mental or physical impairments that are
8 manifested before a person reaches twenty-two years of age,
9 that are expected to continue indefinitely, that reflect a
10 person's need for a combination and sequence of individually
11 planned and coordinated supports and services and that result
12 in substantial functional limitations in three or more of the
13 following areas of major life activities:

- 14 (1) self-care;
- 15 (2) receptive and expressive language;
- 16 (3) learning;
- 17 (4) mobility;
- 18 (5) self-direction; and
- 19 (6) capacity for independent living and
20 economic self-sufficiency;

21 C. "prerelease agreement" means a formal agreement
22 between a correctional facility and the federal social security
23 administration that provides that the correctional facility and
24 the federal social security administration work collaboratively
25 to ensure that the applications of incarcerated persons with

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1 mental disorders for federal supplemental security income and
2 federal social security disability income benefits are promptly
3 processed by the federal social security administration;

4 D. "suspended", when referring to medicaid benefits
5 or food stamp benefits, means to place a person's medicaid or
6 food stamp benefits eligibility in an inactive status, rather
7 than in a terminated status, such that while the benefits are
8 suspended the person remains eligible for future receipt of
9 medicaid and food stamps and continues on the state programs;
10 provided that benefits are not payable for services furnished
11 while the person is incarcerated; and

12 E. "terminated", when referring to the federal
13 supplemental security income program or the federal social
14 security disability income program, means to stop cash payments
15 to a person upon incarceration.

16 Section 3. APPLICATIONS TO RESTORE BENEFITS--
17 DISTRIBUTION OF AND ASSISTANCE WITH APPLICATIONS.--

18 A. The human services department, the corrections
19 department, the children, youth and families department and
20 prison and delinquency facility administrators shall ensure
21 prompt restoration of benefits to an incarcerated person with a
22 mental disorder whose eligibility for federal supplemental
23 security income, federal social security disability income or
24 medicaid benefits has been terminated during incarceration upon
25 release. These agencies shall do everything within their

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1 control to ensure that federal supplemental security income or
2 federal social security disability cash benefits are reinstated
3 in the month of the person's release and that medicaid benefits
4 are reinstated upon release. The agencies shall:

5 (1) identify incarcerated persons with mental
6 disorders whose federal supplemental security income, federal
7 social security disability income or medicaid benefits were
8 terminated during incarceration and ask those persons if they
9 wish to receive benefits upon their release;

10 (2) ensure that, if an incarcerated person
11 with a mental disorder wishes to receive benefits upon release,
12 the person is given an application for reinstatement of
13 benefits and assistance in completing and filing the
14 application to the extent practicable at least thirty days
15 prior to the person's release and that the person is given a
16 copy of the person's completed and filed application; and

17 (3) provide assistance to an incarcerated
18 person with a mental disorder throughout the application
19 process from competent staff familiar with the characteristics
20 of successful applications. The assistance may be provided
21 directly or arranged through contracts for services and shall
22 include distribution of application forms, assistance with
23 securing medical and other information required to support an
24 application and assistance with completing and submitting
25 application forms.

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1 B. With the permission of the incarcerated person,
2 a copy of the person's application shall be provided to a
3 family member designated by the person and to any case manager
4 or social worker who will be working with the person upon the
5 person's release. Permission to distribute a copy of an
6 application for a minor under the age of fourteen is not
7 required.

8 Section 4. PRERELEASE AGREEMENT WITH THE FEDERAL SOCIAL
9 SECURITY ADMINISTRATION.--

10 A. The corrections department, the children, youth
11 and families department and prison and delinquency facility
12 administrators shall, within ninety days of the effective date
13 of the Prerelease Benefits Assistance Act, negotiate a
14 prerelease agreement with the local office of the federal
15 social security administration designed to ensure:

16 (1) prompt consideration by the federal social
17 security administration of applications for federal
18 supplemental security income or federal social security
19 disability income benefits on behalf of incarcerated persons
20 with mental disorders; and

21 (2) that the federal social security
22 administration is informed of the expected and actual release
23 dates of persons with mental disorders whose applications are
24 pending or have been approved.

25 B. Once negotiated, the corrections department, the

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1 children, youth and families department and prison and
2 delinquency facility administrators shall implement the
3 provisions of the prerelease agreement as soon as practicable.

4 Section 5. APPLICATIONS FOR INCARCERATED PERSONS
5 TERMINATED FROM OR NOT ENROLLED IN FEDERAL BENEFITS PROGRAMS--
6 PROCEDURES.--

7 A. The human services department, the corrections
8 department and the children, youth and families department
9 shall assist incarcerated persons with mental disorders whose
10 eligibility for federal supplemental security income, federal
11 social security disability income or medicaid benefits were
12 terminated during incarceration or who were not receiving
13 benefits at the time they were incarcerated to apply, while
14 incarcerated, to receive benefits upon their release. The
15 human services department shall:

16 (1) establish application procedures for
17 benefits on behalf of incarcerated persons with mental
18 disorders in anticipation of their release; and

19 (2) promptly review an application and
20 complete that review as soon as possible prior to a person's
21 release; provided that such a review shall be completed within
22 thirty days from the date of receipt of the person's
23 application.

24 B. The review as provided in Subsection A of this
25 section shall assess whether the incarcerated person with a

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1 mental disorder is eligible to be enrolled in federal
2 supplemental security income, federal social security
3 disability income or medicaid benefits programs or is likely to
4 be eligible for benefits upon release. If the human services
5 department determines that the person is eligible to be
6 enrolled while incarcerated, the person shall be enrolled. The
7 person shall be provided the proper documentation to enable the
8 person to receive benefits effective upon the person's release.

9 C. The agencies designated in Subsection A of this
10 section shall provide assistance to incarcerated persons with
11 mental disorders throughout the application process from
12 competent staff familiar with the characteristics of successful
13 applications. The assistance may be provided directly or
14 arranged through contracts and shall include distribution of
15 application forms, assistance with securing medical and other
16 information required to support applications and assistance
17 with completing and submitting application forms.

18 Section 6. PHOTO IDENTIFICATION.--The corrections
19 department and the children, youth and families department
20 shall arrange for incarcerated persons with mental disorders to
21 be issued photo identification upon their release.

22 Section 7. AMENDMENT TO STATE MEDICAID PLAN.--If
23 implementation of the provisions of the Prerelease Benefits
24 Assistance Act requires an amendment to the state medicaid
25 plan, the human services department shall apply for such an

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1 amendment within ninety days of the effective date of that act
2 and shall take reasonable actions to obtain federal approval of
3 the amendment.

4 Section 8. APPROPRIATION.--Two hundred twenty-five
5 thousand dollars (\$225,000) is appropriated from the general
6 fund to the human services department for expenditure in fiscal
7 year 2008 for the purpose of implementing the Prerelease
8 Benefits Assistance Act. Any unexpended or unencumbered
9 balance remaining at the end of fiscal year 2008 shall revert
10 to the general fund.

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